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Forty-ninth session
Agenda items 32, 33, 43, 44, 79, 88, 89, 90 and 92

COOPERATION BETWEEN THE UNITED NATIONS AND THE ORGANIZATION OF AFRICAN UNITY

QUESTION OF EQUITABLE REPRESENTATION ON AND INCREASE IN THE MEMBERSHIP OF THE SECURITY COUNCIL AND RELATED MATTERS

RESTRUCTURING AND REVITALIZATION OF THE UNITED NATIONS IN THE ECONOMIC, SOCIAL AND RELATED FIELDS

COMMEMORATION OF THE FIFTIETH ANNIVERSARY OF THE UNITED NATIONS IN 1995

COMPREHENSIVE REVIEW OF THE WHOLE QUESTION OF PEACE-KEEPING OPERATIONS IN ALL THEIR ASPECTS

SUSTAINABLE DEVELOPMENT AND INTERNATIONAL ECONOMIC COOPERATION

ENVIRONMENT AND SUSTAINABLE DEVELOPMENT

OPERATIONAL ACTIVITIES FOR DEVELOPMENT

AGENDA FOR DEVELOPMENT

Letter dated 30 September 1994 from the Minister for Foreign Affairs of Tunisia addressed to the Secretary-General

As the representative of the current Chairman of the Organization of African Unity, I have the honour to convey to you the declaration of the Ministers for Foreign Affairs of the Organization of African Unity, which they adopted at the ministerial meeting held on 29 September 1994.

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I should be grateful if you would have this declaration circulated as a document of the General Assembly under agenda items 32, 33, 43, 44, 79, 88, 89, 90 and 92.

(Signed) Habib BEN YAHIA
Minister for Foreign Affairs
of Tunisia

ANNEX

Declaration adopted by the Ministers for Foreign Affairs of the Organization of African Unity at New York on 29 September 1994

We, the Ministers for Foreign Affairs of the States members of the Organization of African Unity, meeting in New York on 29 September 1994,

Having considered the changes and events which have occurred throughout the world and which have strong political, economic and social implications for countries in all categories; noting that a number of measures have been taken with a view to the reform and revitalization of the United Nations system, to enable it to respond more effectively to the aspirations of the Member States in the area of security and in the economic and social sectors; and emphasizing the need for continuous monitoring and evaluation of the United Nations reform process,

Declare solemnly that:

1. The reform measures adopted must be applied with flexibility in order to ensure that the United Nations gives increased attention to the socio-economic development questions which remain critical in Africa, the least developed region. Henceforward, all the decisions adopted should be implemented, so as to enable the United Nations to carry out effectively and efficiently its policies and programme of operational activities.

2. The United Nations, its subsidiary organs and the specialized agencies are the principal mechanisms for carrying out world policies designed to tackle the matters of common interest discussed and adopted by the United Nations. In this respect, we emphasize that the General Assembly has a cardinal role in the supervision of all United Nations organs and in the preparation of an international consensus with respect to economic, social, political and related matters. We state further that, although Africa undoubtedly supports the reorganization of the United Nations, including the reorganization of the agencies responsible for operational activities for development, those reforms should not hamper its effective and favourable participation in the work of those organs.

3. We reaffirm that the United Nations Secretariat has a major role to play in devising and carrying out world policies. In this respect, a more equitable representation in the higher-echelon posts and at the decision-making levels at Headquarters would facilitate the strengthened delivery of programmes of interest to Africa. As regards the United Nations New Agenda for the Development of Africa in the 1990s, it is imperative to establish an appropriate high-level department, in addition to the current Africa coordination office, to monitor and implement the programmes designed to meet Africa's development concerns as reflected in the New Agenda.

4. We invite all the parties to the negotiation of the draft resolution establishing a diversification fund for Africa's commodities to demonstrate

flexibility so that the resolution may be adopted in the course of this forty-ninth session of the General Assembly.

5. We welcome the conclusion, on 17 June 1994, at Paris, of the International Convention on the Control of Desertification in Countries Seriously Affected by Drought and/or Desertification, particularly in Africa. We welcome the opening of the Convention for signature at Paris on 14 and 15 October 1994, and we urge all Member States to sign and ratify it as soon as possible.

6. We reaffirm that the socio-economic situation of Africa remains very perturbing and warrants particular attention on the part of the United Nations system and the international community. At the same time, we recognize that other regions of the world also have pressing problems.

7. We appeal also to the international community, especially the developed countries, to assume commitments favourable to Africa in the framework of the World Summit for Social Development, to be held at Copenhagen in March 1995, the Fourth World Conference on Women, to be held at Beijing in September 1995, and United Nations Conference on Human Settlements (Habitat II), to be held at Istanbul in June 1996.

8. We welcome the Fourth World Conference on Women, and we reaffirm our support for the convening at Dakar in November 1995 of the regional preparatory conference. We emphasize the necessity of a platform of action to deal with the critical social and economic situation of African women. In this respect, we appeal to the international community to ensure that the results of the Conference are carried out and monitored.

9. We reaffirm the important and constructive role which Africa should play in the formulation of world policies, and we therefore reject the marginalization of the African continent. While recognizing that other regions also are experiencing pressing problems, we maintain that the situation of Africa is particularly acute and warrants special attention.

10. We continue to regard the Bretton Woods institutions as important for the promotion of international economic development. At the same time, development aid to Africa would have a greater impact if it reflected policies and strategies as mapped out by the Africans themselves. In this respect, the improved coordination of the activities of the Bretton Woods institutions and the activities of the United Nations would be a step in the right direction. Such coordination, in Africa's view, would, if OAU was fully associated with it, be extremely conducive to the implementation of the United Nations New Agenda for the Development of Africa in the 1990s. The Bretton Woods institutions should be accountable to the United Nations, in accordance with the provisions of Articles 57 and 63 of the Charter of the United Nations.

11. We hope that the agenda for development to be drawn up at the forty-ninth session of the General Assembly will make concrete and action-oriented recommendations and will define specific and practical ways of applying those recommendations.

12. We welcome the forthcoming entry into force on 16 November 1994 of the United Nations Convention on the Law of the Sea, and we appeal to States to sign and ratify the Agreement relating to Part XI adopted in July 1994.

13. We note with regret that the resources allocated to United Nations operational activities for development continue to decline, in spite of the commitment on the part of the developed countries to increase their share of assistance to 0.7 per cent of GNP. In this respect, we appeal to the developed countries to set up a more predictable and more reliable financing mechanism, in conjunction with the international cooperation commitments assumed in the context of the resolutions of the General Assembly. We are referring more especially to the Declaration on International Economic Cooperation, in particular the Revitalization of Economic Growth and Development of the Developing Countries, adopted at the eighteenth special session; the International Development Strategy for the Fourth United Nations Development Decade; the Declaration on the Right to Development; the United Nations New Agenda for the Development of Africa in the 1990s; the Programme of Action for the Least Developed Countries for the 1990s; the Cartagena Commitment adopted by the United Nations Conference on Trade and Development at its eighth session; the Rio Declaration on Environment and Development and Agenda 21, adopted by the United Nations Conference on Environment and Development, together with other agreements and conventions adopted by the Conference; the Cairo Declaration on Population and Development; and the consensus on the eradication of poverty and social degradation and disintegration, which is scheduled for adoption at the conclusion of the World Summit for Social Development, to be held at Copenhagen in March 1995.

14. We invite the developed countries, in the governing bodies of the multilateral financing institutions, to hold negotiations with the developing countries, particularly those in Africa, for the purpose of alleviating or reducing their multilateral debts.

15. We welcome the appeal made by Mr. Zini El-Abidine Ben Ali, President of the Republic of Tunisia and current Chairman of OAU, at the meeting of the seven principal industrialized countries held at Naples, Italy, in July 1994, calling for the elimination or reduction of the debt of African countries.

16. We again state that the question of the external debt remains the most serious obstacle to the efforts we are making to mobilize resources for development, and we urge that a durable and comprehensive solution to the debt question should be found as soon as possible. In this respect, we support the initiative of the Movement of Non-Aligned Countries with respect to debt, as it was elaborated at the conference of ministers of non-aligned countries on debt and development, held at Jakarta from 13 to 15 August 1994, and we request that the report and recommendations of that Conference be considered at the current session of the General Assembly.

17. We reiterate our appeal to the United Nations system and the international community to provide effective support to the OAU machinery for conflict prevention, management and resolution.

18. We recommend that the composition of the Security Council should reflect the current realities of international life, including the end of the cold war, the democratization process, which should be extended to the intergovernmental organs, and the increase in the membership of the United Nations. In this respect, at least two permanent seats, with their accompanying prerogatives, should be reserved for Africa. The members of the Security Council could be elected eventually on the basis of equitable geographical representation.

19. The efforts made by the United Nations in conflict prevention and in maintaining or promoting a lasting peace should be in strict compliance with the provisions of the Charter relating to national sovereignty, territorial integrity and non-intervention in the internal affairs of Member States. They should also include the establishment of early warning systems, the dispatch to potential conflict areas of fact-finding or observer missions, and the establishment of observer posts in tension-filled areas, with emphasis on confidence-building measures.

20. The deplorable proliferation of conflicts within and between States which has followed upon the end of the cold war demonstrates that innovative approaches to conflict prevention, management and resolution are required. We stress the multidimensional nature of the conflicts, and we are of the view that the maintenance of peace and security should encompass political, social, economic, humanitarian and other considerations of relevance to development.

21. The proliferation of conflicts and crises throughout the world has strained the capacity of the United Nations to be effective and decisive in carrying out peace-keeping activities in the afflicted countries. We are perturbed by the increasingly marked trend towards selective treatment of crises in different regions of the world and by the reluctance of Member States to act rapidly to meet the requirements of peace-keeping operations. In this context, the United Nations should strengthen its cooperation with the regional organizations, including OAU, in the spirit of Chapter VIII of the Charter, which provides for contributions to regional agencies of technical, logistic and financial assistance.

22. We note with satisfaction that the war in Rwanda, which inflicted unprecedented human suffering and tragedy, has ended. We are also pleased to note that a new government has been installed in Kigali, and we appeal to it to establish a climate that will facilitate the prompt return of the refugees. The efforts made by the Secretary-General to assist Rwanda and the neighbouring States to cope with the delicate situation in the region created by the exodus of population groups are to be commended. The adoption of measures to set up an international tribunal for the prosecution of perpetrators of heinous crimes in Rwanda should be expedited. In so far as the political problem is concerned, we recommend that it should be considered in the spirit of the duly amended Arusha Peace Agreement, under the auspices of OAU.

23. We welcome the satisfactory progress made in preparing for democratic elections in Mozambique, which should finally mark the end of the long conflict in that country.

24. We note with regret that the situation in Somalia is continuing to deteriorate. We therefore urge that the United Nations Operation in Somalia should be maintained until the necessary arrangements are made for the election of a new government in Somalia.

25. We are following with interest the negotiations between the Government of Angola and UNITA which are being held in Zambia, and we invite the two parties to demonstrate flexibility with a view to reaching an amicable agreement as soon as possible.

26. We note with satisfaction that the Libyan Arab Jamahiriya has accepted Security Council resolution 731 (1992), and we appreciate the positive steps which it has taken towards ending the crisis and the confrontation with France, the United Kingdom and the United States of America. We welcome the condemnation by the Libyan Arab Jamahiriya of international terrorism and those who encourage or practise international terrorism. In noting the physical and human suffering which the people of the Libyan Arab Jamahiriya and neighbouring countries continue to endure as a result of the sanctions imposed by Security Council resolutions 748 (1992) and 883 (1993) and the fact that the dispute has not been settled, we appeal to the parties to avoid any escalation of the dispute and to work towards a peaceful solution that will safeguard their interests, in accordance with Chapter VI of the Charter of the United Nations. In this respect, we welcome resolution 5373 adopted by the League of Arab States, which provides a good basis for a just and peaceful settlement of the crisis. We favour the lifting of sanctions while the dialogue continues.

27. We hope that the landmark occasion of the commemoration of its fiftieth anniversary will provide the United Nations with an opportunity to review its achievements and renew its institutions; to undertake its reforms so as to be able to deal with world problems adequately, in this new era of international relations; and to be more receptive to the aspirations of Africa with respect to sustained and lasting economic growth and development.

28. We endorse the joint African position on the reform of the United Nations and related matters, and we decide to request the Secretary-General of the United Nations to issue this declaration as a document of the General Assembly at the forty-ninth session.

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UNITED NATIONS COMMON SYSTEM

Report on decisions of Administrative Tribunals

Report of the Secretary-General

I. INTRODUCTION

1. The General Assembly, in part VI of its resolution 48/224 of 23 December 1993, noted that recent judgements of the International Labour Organization (ILO), had both an administrative and a financial impact on the common system. The Assembly regretted that the International Civil Service Commission (ICSC) and other common system organizations, other than the respondent organization to the appeals, did not have the opportunity to present their views to the Administrative Tribunal of ILO, particularly as under the Rules of the United Nations Administrative Tribunal, the Chairman of the United Nations Joint Staff Pension Board (UNJSPB) may intervene in a case if its outcome could affect the administration of the Pension Fund. The Assembly noted that there were no mechanisms to ensure timely notice of such cases to UNJSPB and that no such opportunity for intervention was even afforded to ICSC.

2. As a result, in addition to requesting the Secretary-General and other executive heads to consult fully with UNJSPB and ICSC in cases that are before either Tribunal and which involve those organs or decisions taken by those organs, the Assembly, in paragraph 7 of the resolution, requested the Secretary-General, in consultation with the executive heads, to examine the feasibility of:

> "(a) Amending the statute of the International Civil Service Commission and/or the relationship agreements between the United Nations and the other organizations of the common system with a view to ensuring a coordinated response in all appeals involving the conditions of service of staff of the common system;

"(b) Introducing arrangements similar to those under article 20 of the Rules of Procedure of the United Nations Administrative Tribunal and under article 17, paragraph 1 of the Rules of Court of the Administrative Tribunal of the International Labour Organization, with established mechanisms for providing timely notice of such cases to the International Civil Service Commission, to enable the Commission to intervene in appeals before those Tribunals involving decisions or recommendations of the Commission or any other common system issues; and to report thereon to the General Assembly at its forty-ninth session."

II. CONSULTATIONS WITHIN CCAQ

3. The General Assembly's request was considered by the Consultative Committee for Administrative Questions (Personnel and General Administrative Questions) at its eightieth and eighty-first sessions in February and July 1994, respectively, on the basis of notes submitted by the United Nations Secretariat.

A. Amendment of relationship agreements

4. As regards the possibility of introducing amendments to the relationship agreements between the United Nations and the specialized agencies for the purpose of ensuring a "coordinated response in all appeals involving the conditions of service of staff of the common system", it was recognized that given the nature of the relationship agreements, in which, essentially, the specialized agencies and the United Nations agree in broad and general terms on the manner in which they are to interact with each other, the introduction of detailed provisions in the agreements requiring the organizations to advise ICSC of any significant appeals would be inappropriate. In this connection, it should also be noted that the desirability of amending the relationship agreements between the United Nations and the specialized agencies is a matter under separate review by the Administrative Committee on Coordination (ACC) and the Economic and Social Council; that review is undertaken pursuant to paragraph 11 of General Assembly resolution 46/191 B of 31 July 1992, in which the Assembly called upon the Economic and Social Council "to review and, where appropriate, strengthen the applicable sections of the relationship agreements between the United Nations and member organizations of the common system, ..., in order to enhance comparability and further adherence to the goals and objectives of the common system". In considering the desirability of reviewing and/or revising the relationship agreements, ACC indicated that such review and/or amendments would not be beneficial (see E/1993/119/Add.1).

5. A proposal to amend the Statute of ICSC was also discussed in CCAQ. That proposal sought to ensure that organizations formally notify ICSC of cases that may have an impact upon the regulation and coordination of conditions of service of the common system and that enable it to intervene before the United Nations Administrative Tribunal or the Administrative Tribunal of ILO if it so desires. However, it was deemed that such a proposal would cause too many difficulties by reopening the whole issue of the Statute of ICSC.

B. Amendment to the Rules of the United Nations Administrative Tribunal and the Administrative Tribunal of ILO

6. The United Nations then proposed that much the same result could be achieved by a resolution of the General Assembly requesting the governing bodies of the organizations of the common system to adopt resolutions instructing their executive heads to inform the Executive Secretaries of ICSC and UNJSPF promptly of pending litigation involving matters within the sphere of competence of their respective organs and inviting them either to make comments on the appeals, which comments would be incorporated in the Respondent's Answer to the Tribunals, or to make separate submissions to the Tribunals, if permitted by the Rules of those Tribunals.

7. In this respect, it was explained to CCAQ that the General Assembly, in its resolution 48/224, had noted that article 20 of the Rules of the United Nations Administrative Tribunal enabled the Chairman of UNJSPB to intervene in a case "if it is considered that the judgement to be given by the Tribunal could affect the administration of the United Nations Joint Staff Pension Fund". The United Nations suggested to CCAQ that the following amendment to article 20 could extend its applicability to ICSC, thereby enabling the Commission to intervene in a case to which its attention had been drawn by a member organization:

> "The Secretary-General of the United Nations, the chief administrative officer of a specialized agency to which the competence of the Tribunal has been extended in accordance with its Statute, the Chairman of the Joint Staff Pension Board, or the Chairman of the International Civil Service Commission, may, on giving previous notice to the President of the Tribunal, intervene at any stage, if they consider that their respective administrations may be affected by the judgement to be given by the Tribunal."

8. The United Nations suggested to CCAQ that, if such an amendment were to be found acceptable to ACC, and subsequently approved by the General Assembly, the Secretary-General would write to the President of the United Nations Administrative Tribunal requesting the Tribunal to consider amending article 20 of its Rules along the lines indicated above.

9. In so far as the Administrative Tribunal of ILO is concerned, it was noted that article 13 of its Rules had been amended effective 1 May 1994 to provide as follows:

> "1. Anyone to whom the Tribunal is open under article II of the Statute may intervene in a complaint on the grounds that the ruling which the Tribunal is to make may affect him.
>
> "2. An organization over which the Tribunal has jurisdiction may intervene in a complaint on the grounds that the ruling which the Tribunal is to make may affect it.
>
> "3. The Tribunal or, between sessions, the President, may instruct the Registrar to give notice of a complaint to any third party if it appears that such third party may want to intervene.

"4. To be receivable, an application to intervene shall be delivered at the Registry before the opening of the session for which the complaint is listed."

10. The United Nations suggested to CCAQ that article 13 (2), quoted above, could be amended along the same lines as suggested above for article 20 (1) of the Rules of the United Nations Administrative Tribunal. This would enable UNJSPB and ICSC to intervene in a case dealing with their respective spheres of competence. Such a result could be achieved by recommending to the Assembly that it request the Secretary-General to write to the Administrative Tribunal of ILO asking that it consider adopting amendments along the lines suggested above so that the bodies responsible for the regulation and coordination of conditions of service have the right to intervene and to make a submission to that Tribunal.

III. CONSIDERATION BY MEMBERS OF CCAQ

11. The members of CCAQ recognized that, for the proper administration of justice, it was important for the Tribunals to have before them all relevant information when reaching a decision. The majority of the organizations had no objection to requesting the Tribunals to revise their procedures in order to allow ICSC or UNJSPB to make a submission as amicus curiae ("friend of the court") provided that such submissions were limited to the provision of factual technical information. Other organizations, however, did not consider such an approach to be appropriate as it was not reasonable to expect ICSC to avoid taking an advocate's position in a case which challenged its decisions. Yet a third group of organizations considered that ACC should be invited to urge organizations to ensure that ICSC was consulted on appeals relating to common system matters in order to obtain all relevant information, and that such information be used in the responding organization's answer. It was, however, agreed that in no case should the appeal process be delayed. The United Nations was asked to take note of these findings and reflect them in the Secretary-General's report to the General Assembly.

IV. RECOMMENDATIONS

12. After having considered the views expressed in CCAQ, the Secretary-General suggests to the Assembly that it would not be appropriate, for the reasons set out in paragraph 4 above, to seek to amend the relationship agreements between the United Nations and the other organizations of the common system; nor would it be appropriate to seek to amend the Statute of ICSC (see para. 5 above). However, the Secretary-General considers that, with a view to ensuring a coordinated response in all appeals involving the conditions of service of staff of the common system, it would be possible to proceed with an amended version of his original proposals to CCAQ as the amendments take account of the majority viewpoint in CCAQ.

13. The Secretary-General thus first suggests that the Assembly request him to write to the President of the United Nations Administrative Tribunal asking the

Tribunal to consider amending article 20 of its Rules along the following lines (new text underlined):

"ARTICLE 20

"1. The Secretary-General of the United Nations, the chief administrative officer of a specialized agency to which the competence of the Tribunal has been extended in accordance with its Statute, or the Chairman of the Joint Staff Pension Board, may, on giving previous notice to the President of the Tribunal, intervene at any stage, if they consider that their respective administrations may be affected by the judgement to be given by the Tribunal.

"2. The Tribunal may permit, prior to the close of written proceedings, the Chairman of the International Civil Service Commission to provide factual or technical information to the Tribunal in cases involving appeals against decisions taken on the basis of International Civil Service Commission actions."

This amendment would take account of the majority view in CCAQ that ICSC should not be an advocate in such proceedings but should only provide factual and technical information, if ICSC sought to present such information and if the Tribunal wished to consider such information.

14. Secondly, the Secretary-General suggests that the Assembly request him to write to the President of the Administrative Tribunal of ILO asking the Tribunal to consider amending article 13 of its Rules by inserting a new provision along the following lines:

"ARTICLE 13 bis

"The Tribunal may permit, prior to the close of written proceedings, the Chairman of the United Nations Joint Staff Pension Board and the Chairman of the International Civil Service Commission to provide factual or technical information to the Tribunal in cases involving appeals against decisions taken on the basis of International Civil Service Commission or United Nations Joint Staff Pension Board actions."

This would enable UNJSPB and ICSC to seek to provide information in a case that affected the operation of UNJSPB or ICSC, as the case may be. Although the powers of UNJSPB to make submissions in a case of the Administrative Tribunal of ILO would be less than in a case of the United Nations Administrative Tribunal where it may intervene, the difference is justified by the fact that the United Nations Administrative Tribunal has direct jurisdiction over pension cases pursuant to the Regulations of the United Nations Joint Staff Pension Fund.

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Agenda item 39
THE SITUATION IN BOSNIA
AND HERZEGOVINA

SECURITY COUNCIL
Forty-ninth year

Letter dated 5 October 1994 from the Chargé d'affaires a.i. of the Permanent Mission of Bosnia and Herzegovina addressed to the Secretary-General

We are concerned once again that the report contained in the annex to Security Council document S/1994/1124 of 3 October 1994 is further evidence of a relentless rush, on the basis of preordained evidence, to secure a political result without due consideration to the true facts, circumstances or consequences.

We must question the authority of a report based upon a short duration of monitoring and limited scope of investigation. It is inconceivable that a monitoring team that has not yet nearly reached its mandated capacity, a capacity which already falls well short of the necessary manpower and resources, is in a position, factually or legally, to provide the enclosed authoritative assessment.

We are also puzzled by the assertion of the report, which reads "in the absence of any contrary information from the air, whether airborne reconnaissance system of the North Atlantic Treaty Organization (NATO), or from national technical means", that the border is closed. This statement overlooks the fact that:

1. To our knowledge, neither the Security Council nor the Co-Chairmen have requested such information nor has there necessarily been sufficient time to submit it without this request.

2. The Government of the Republic of Bosnia and Herzegovina has in fact provided some information reflecting ongoing violations of the border.

3. The widely reported "helicopter flights" identified in the media and by reports to the Council (pursuant to Security Council resolution 781 (1992) of 9 October 1992), including S/1994/5/Add.65, have not been investigated.

4. Even some high-level representatives of the Contact Group member States, including United States Secretary of Defense, Mr. William Perry, have, since the adoption of resolution 943 (1994) of 23 September 1994, cautioned about continuing violations.

We firmly believe it would be most appropriate for the Secretariat and/or the Security Council to investigate the above facts, among others, before accepting the said report as authoritative. Otherwise, this entire procedure will become a sham consumed in the service of unsatisfied political agendas.

May I ask for your kind assistance in circulating the present letter as a document of the General Assembly, under agenda item 39, and of the Security Council.

(Signed) Ivan Z. MISIC
Ambassador and Deputy
Permanent Representative